

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 13
)	
Tim C. Johnson)	
Bessie Mae Johnson,)	CASE NO. 14-60846-MGD
<i>Aka Bessie Joyce Johnson</i>)	
)	
Debtors.)	

IN RE:)	
)	
Tim C. Johnson)	
Bessie Mae Johnson,)	
<i>Aka Bessie Joyce Johnson</i>)	
)	
Movants.)	
)	
vs.)	CONTESTED MATTER
)	
Suntrust Mortgage, Inc.,)	
)	
Respondent.)	

NOTICE OF HEARING

PLEASE TAKE NOTICE Debtor has filed a Motion to Determine Secured Status of Claim and related papers with the Court seeking and order canceling and releasing their second mortgage.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on application in Courtroom 1201, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia, at 10:00 AM on November 12, 2014.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have any attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so.

If you file a written response, you must attach a certificate stating when, how, and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street.

S.W., Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

Dated: October 7, 2014

Respectfully submitted,

Lauren Drayton /s/

Lauren Drayton

Attorney for the Debtor

GA Bar No.: 876061

Robert J. Semrad & Associates, LLC

101 Marietta Street

36th Floor

Atlanta, GA 30303

(678) 668-7160

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MOTION TO DETERMINE SECURED STATUS OF CLAIM

COME NOW Debtors, Tim C. Johnson and Bessie Mae Johnson in the above referenced Chapter 13 bankruptcy case and Movants herein, and hereby moves this Court to determine the status of Suntrust Mortgage, Inc.'s claim pursuant to 11 U.S.C. Section 506, and respectfully shows the following:

1.

This motion is filed pursuant to 11 U.S.C. Section 506(a) and (d), 11 U.S.C. Section 1322(b)(2), and Fed.R.Bankr.P. 3012 and 9014 to treat the junior security interest and/or lien ("junior security interest") held by Respondent in Movants' residential real property, 3312 Inns Brook Way Snellville, GA 30039 as a non-priority, unsecured liability for all purposes within the underlying Chapter 13 proceeding with the voiding and extinguishment of Respondent's security interest upon Movants receiving a Chapter 13 Discharge in this case.

2.

On June 2, 2014 Movants filed for relief under Chapter 13 of the Bankruptcy Code. Venue is appropriate pursuant to 28 U.S.C. Section 1409, Movants and Respondent are subject to the jurisdiction of this court by reason of, and pursuant to, 28 U.S.C. Section 157, 11 U.S.C. Section 1334 and 11 U.S.C Section 506(a)(1) as well as LR 83.7NDGa. This matter constitutes, and is, a core proceeding pursuant to 28 U.S.C. Section 157(b)(2)(A),(B) and (K).

3.

Debtors own real property located at 3312 Inns Brook Way Snellville, GA 30039 ("Property").

4.

Selene Finance, LP holds a first Mortgage lien on the Property.

5.

Respondent holds a second mortgage lien on the Property.

6.

According to the Annual Notice of Assessment received from Gwinnett County the value of the Property is \$ 187,100.00 (*See Exhibit A*).

7.

Debtors currently owe approximately \$251,290.00 on their first mortgage. Selene Finance, LP has not filed a Proof of Claim.

8.

Debtor currently owes approximately \$61,552.00 on their second mortgage. Suntrust Mortgage, Inc. has not filed a Proof of Claim.

9.

The amount owed by Debtors on the first mortgage exceeds the value of the subject property, leaving no equity to which Respondent's claim may attach.

10.

Movants contend the junior position of Respondent "would not be protected from modification under section 1322(b)(2)." *In re Tanner*, 217 F.3rd 1357, 1360 (11th Cir. 2000).

WHEREFORE, Movants pray that this Court grant this motion in total or such part as deemed in the best interest of justice. It is further prayed that the Court order that:

- a) The junior security interest of Respondent is a general, non-priority, unsecured claim; and
- b) That the lien of Respondent be declared void, and ordered extinguished, upon Debtors receiving a Chapter 13 Discharge in this case; and
- c) That the Court grant such other relief as deemed just and proper.

Dated: October 7, 2014

Respectfully submitted,

Lauren Drayton /s/

Lauren Drayton

Attorney for the Debtor

GA Bar No.: 876061

Robert J. Semrad & Associates, LLC

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36th Floor

Atlanta, GA 30303

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CERTIFICATE OF SERVICE

I hereby certify that I am more than 18 years of age and that I have this day served a copy of the within Motion to Determine Secured Status of Suntrust Mortgage, Inc., upon the following by depositing a copy of the same in U.S. Certified Mail with sufficient postage affixed thereon to ensure delivery:

Debtors

Tim C. Johnson
Bessie M Johnson
3312 InnsBrook Way
Snellville, Ga 30039

Respondent

Suntrust Mortgage, Inc.
303 Peachtree St. NE
36TH Floor
Atlanta, GA 30308-3201

Suntrust Mortgage, Inc.
1001 Semmes Ave
Richmond VA 23224

Registered Agent

Suntrust Mortgage, Inc.
c/o Corporation Service Company
40 Technology Parkway
Suite 300
Norcross, GA 30092
(Certified Mail)

Suntrust Mortgage, Inc.
c/o Steven P. Shriner, CEO
1001 Semmes Ave
Richmond VA 23224
(Certified Mail)

Suntrust Mortgage, Inc.
c/o Jerome T. Lienhard, III, CFO
1001 Semmes Ave
Richmond VA 23224
(Certified Mail)

I further certify that, by agreement of parties, Mary Ida Townson , Standing Chapter 13 Trustee, was served via ECF

Dated: October 7, 2014

Lauren Drayton /s/
Lauren Drayton
Attorney for the Debtor
GA Bar No.: 876061
Robert J. Semrad & Associates, LLC
101 Marietta Street
36th Floor
Atlanta, GA 30303
(678) 668-7160

EXHIBIT A

ANNUAL NOTICE OF ASSESSMENT

Gwinnett County Board of Assessors Office 75 Langley Drive Lawrenceville, GA 30046-6935 770.822.7200	Notice Date: 04/04/2014
	This is not a tax bill Do not send payment
	Last Date to File Appeal: 5/19/2014
JOHNSON TIM C 3312 INNS BROOK WAY SNELLVILLE, GA 30039-5682	County property records & Appeal PT311A forms are available online at: www.gwinnett-assessor.com
	Official Tax Matter - 2014 Assessment

The amount of your ad valorem tax bill for the year shown above will be based on the appraised (100%) and assessed (40%) values specified in this notice. You have the right to appeal these values to the County Board of Tax Assessors.

All documents and records used to determine the current value are available upon request.

Additional information on the appeal process may be obtained at www.gwinnett-assessor.com

At the time of filing your appeal you must select one of the following options:

- (1) Appeal to the County Board of Equalization with appeal to the Superior Court (value, uniformity, denial of exemption, taxability)
- (2) To arbitration without an appeal to the Superior Court (valuation is the only grounds that may be appealed to arbitration)
- (3) For a parcel of non-homestead property with a FMV in excess of \$1 million, to a hearing officer with appeal to the Superior Court.

If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. Appeal forms which may be used are available at www.gwinnett-assessor.com

For further information on the proper method of filing an appeal, you may contact the county Board of Tax Assessors which is located at 75 Langley Dr, Lawrenceville, Ga. 30046 and which may be contacted by telephone at: 770-822-7200.

Your staff contact is Lisa Ballouk.

Account Number	Property ID Number	Acreage	Tax Dist	Covenant Year	Homestead
6250 M012	R6002 174	0.95	COUNTY Unincorporated		S1R
Property Description	L3 BB INNS BROOK NORTH 1				
Property Address	3312 INNS BROOK WAY, SNELLVILLE 30039				
Fair Market Value	Returned Value	Previous Year Value	Current Year Value	Other Value	
100% Fair Market Value	0	144,000	187,100	0	
40% Assessed Value	0	57,600	74,840	0	
REASONS FOR NOTICE					
Adjusted for Market Conditions					
The estimate of your ad valorem tax bill for the current year is based on the previous year's net millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.					
Taxing Authority	Other Exempt	Homestead Exempt	Net Taxable Value	Previous Millage	Estimated Tax
County General Fund	0	10,000	64,840	7.4000	479.82
Detention Center Bond	0	0	74,840	0.2400	17.96
Development/Code Enforcement	0	10,000	64,840	0.3600	23.34
Fire & EMS	0	10,000	64,840	3.2000	207.49
Police	0	10,000	64,840	1.6000	103.74
Recreation	0	7,000	67,840	0.9500	64.45
School	0	4,000	70,840	19.8000	1,402.63
School Bond	0	0	74,840	2.0500	153.42
State	0	74,840	0	0.1500	.00